

4th Infantry Division (M)

Legal Assistance Office

Divorce and Separation
in Texas

Divorce And Separation In Texas

**THERE IS NO SUCH THING AS
LEGAL SEPARATION IN TEXAS!**

In Texas, you are either married or divorced. You are **NOT** divorced until the moment the Judge signs your divorce decree...

TAKE HEED!

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To Qualify for a Texas Divorce

- One spouse must have lived in Texas for at least 6 months AND been a resident of the county where the divorce will be filed for at least 90 days.
- If you are a Texas resident, but have been overseas because of orders, you meet the residency requirement.
- 60 day waiting period between the date you file the petition and your court hearing.

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To Qualify for a Texas Divorce

- If there are children of the marriage, the children must have resided in Texas for at least 6 months for Texas to have jurisdiction.
- If you or your spouse is pregnant, you must wait until the child is 5 days old before you can file for divorce.

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Grounds for Divorce

- *No Fault Divorce*: In Texas, no need to explain why you want divorce; nearly all Texas divorces are “no fault” divorces. Also referred to as “insupportability.”
- If there is evidence of physical abuse, proving fault will change the division of property. Client should seek civilian counsel.

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Property & Debt Liability Issues



- Texas is a *community property* state.
- *Community property*: everything bought or acquired during the marriage belongs equally to both parties. Community property is usually 50/50.
- *Separate property*: anything acquired by gift or inheritance, and the proceeds of separate property. Also, property owned prior to the marriage.
- *Some* debts incurred by one spouse may be the responsibility of the other spouse.
- Creditors are not bound by the divorce decree.

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Alimony

- *Alimony*: support for the ex-spouse
- Two classes of spouses are eligible for alimony:
 - Persons who have been married for at least 10 years and have insufficient property or employment skills to support themselves.
 - Persons whose spouses are convicted (or evidence of abuse) of family violence within 2 years prior to filing for divorce or during divorce proceedings.
- Eligible spouses should seek civilian counsel.

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Child Support & Custody

Child Support Guidelines

1 child = 20% of net resources

2 children = 25% of net resources

3 children = 30% of net resources

4 or more children = min. 35% of net resources

Child Custody

There is no presumption that the mother should automatically get custody; the Court looks at the “best interests” of the child.

Think of your kids and attempt to come to an agreement as to custody.

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Army Family Support: AR 608-99

- If separated from your family, you have an obligation to pay support.
- If there is no court order for support and you cannot agree on the amount, the Army sets the amount IAW AR 608-99 until there is a court order or agreement.
- To obtain payments, the spouse should call the commander and request AR 608-99 payments.
- Commanders enforce support obligations; commanders will question and counsel soldiers on obligation to pay. Refusal is punishable as failure to obey a lawful order.

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AR 608-99 Family Support: How much?

- Family on post: None – this is a new change.
- Family off post: full BAH Type II w/dep. rate.
- Multiple families: pro rata based on the number of family members
- Dual military: if no children = 0;
if children = custodial parent receives BAH Type II differential

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Military Benefits

- Military pay and potential retirement pay is divisible.
- ID cards are valid until the day the divorce is final.
When divorce is finalized, soldier should take a copy of the decree to the ID section.
- Spouse loses all military benefits, unless:
 - 20/20/20
 - 20/20/15

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Pro Se Divorces

- *What can we do for you?*
- “Pro Se” divorce ~ Latin, meaning “for himself.”
You are basically your own attorney.
- If you qualify for a “pro se” divorce, the Legal Assistance Office will do all the paperwork for your divorce. You will have to pay the filing fee and appear in court.

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To Qualify for a Pro Se Divorce in the LAO

- E-5 and below (waivable).
- No children of the marriage. If children born or adopted in the marriage, must seek civilian counsel.
- Uncontested. If you or your spouse disagree about any aspect of the divorce, you must seek civilian counsel.
- No real estate.

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PROTECT YOURSELF

- Powers of Attorney: revoke all POA by completing a form from the LAO and giving it to all businesses that relied upon the original POA.
- Joint Accounts: Close all joint accounts; be sure your spouse knows and be sure you leave enough money in the account to clear any outstanding debts.
- AAFES Check Cashing Privileges: Obtain and complete form from the LAO revoking privilege.
- SGLI, Will & Family Care Plan: Be sure you make necessary changes.

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Grounds for Annulment

- Married under the age of 14 or between 14 and 18 without parental consent.
- Married while under the influence.
- Permanent impotence.
- Mental incompetence.
- Married due to fraud, duress, or force.
- Concealed divorce.

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LASTLY...

- If you are interested in marriage counseling, the LAO can provide you appropriate resources.
- If you need a civilian attorney, LAO can provide you with a list of attorneys in the area.
- Divorce Fact Sheets available in the LAO.
- If you would like to meet with an attorney, please make an appointment with the front desk.
- If you qualify for pro se program, fill out questionnaire

ANY GENERAL QUESTIONS?